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Disarmament Commission

261st meeting

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New York

Chairman: Mr. Adamia ..... (Georgia)

The meeting was called to order at 10.35 a.m.

The Chairman: I am very pleased to continue our work. As all will remember, yesterday we were switched off as we continued our work, so we are reconvening this morning. I will try to remind members where we are and where our discussions are heading.

In essence, we have two suggestions for procedural matters: either to adjourn the session or to continue the work. As to what we might work on, we have the so-called Chairman's proposal — although I would say that it is the product of the collective work of a number of delegations — which seems to be suitable to everybody as a basis for discussions. The question is when to work on that proposal: either now, during the course of this and next week, or later. "Later" is also a question, but a separate one: What does "later" mean?

So this is our current situation and we have to decide what we are doing. We cannot go on with such a discussion forever and, certainly, we have to find a way to proceed. So I open the floor to the suggestions of delegations.

Mr. Liebowitz (United States of America): I was wondering whether I was going to get sound today or continue as yesterday, but it seems as if we are back in business.

It was suggested by someone that, as we are getting well into this discussion, we be as clear as possible, so I thought I might start out and be as clear as possible.

What I can certainly be very clear about is that the United States cannot accept adjourning and reconvening after the third session of the Preparatory Committee for the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). First of all, as the Secretariat has pointed out on several occasions, it is not even clear that that is possible without spending more money, and I do not think many delegations would be prepared to do that. So, if we adjourn, it is until next year.

Second of all, let me say that I have been in close contact with Washington, D.C., both by phone and by e-mail. I have seen what they are working on as my guidance. Based on the draft that I have seen, and there are obviously no guarantees about this, I think we are very close to agreement on these topics and I think it would be a shame to give that up now. I realize that everybody, depending on their situation, has to have group meetings, consult with capitals and so on, but I think we are close and I think it would be a shame to give that up. I think that is where we are now and I hope I have been clear.

Once again, I would like to thank colleagues who have been flexible, have come up with constructive ideas and have tried to get us close together. I think that if we focus on that, rather than on procedural matters, we might actually reach agreement and then

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have something to talk about, maybe even this year, but certainly for the next several years.

The Chairman: I join in expressing gratitude to the delegations with which we worked on the proposals for their flexibility, good will and effective work.

I must repeat that we have to come to some decision. We cannot adjourn this session without a consensus, according to the rules of procedure, as I understand them, but it looks like delegations are not ready just now to come up with a discussion on substance. However, we cannot just go further now in discussing the substance, as I said, because there are a number of delegations that do not have their instructions from their capitals.

Perhaps we might propose to act in such a way that we would adjourn the meeting now and reconvene it later, at some stage. That could be today at 3 p.m., or maybe tomorrow or even Friday, in order to give delegations some more time to consult with their capitals, to consult with each other, to explain the situation to their capitals and to come to a decision. Either we should adjourn the meeting now or decide what we should do further, if we are not in a position to adjourn the meeting now. Is there any opinion on such a proposal?

Mr. Issa (Egypt): I really just have a query. The representative of the United States indicated that his country is not in a position to support an adjournment of the session today or to reconvene after the meeting of the Preparatory Committee for the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Does he mean that the United States would not be in a position to reconvene the Disarmament Commission at any time after the NPT until the end of December 2004, or does he specifically mean immediately after the NPT?

There is a significant period of six months left in 2004 and there is a possibility that adequate time might be found without the need to incur additional expenses. If adequate time is to be found without the need to incur additional expenses in the remaining six and a half months following the end of the NPT Preparatory Committee until the end of this year, would there be a possibility for the United States to reconvene this session, or does its point of refusing to reconvene extend to the end of December 2004? I am just not clear. I would like some clarification, if that is possible.

Mr. Liebowitz (United States of America): I thought I was clear, but in order to avoid any ambiguity, I would say that, no, we cannot agree to adjourning and postponing whatever is left of this substantive session until some time later this year. If we adjourn, it is until next year.

We agreed back in the General Assembly that these were the dates. This is what we have planned for. We have lots of other commitments later in the year. Admittedly, there are six months left, but there are a lot of other things going on and I just do not think it is possible. Again, I think that the Secretariat has made it clear that it would be technically difficult and, perhaps, expensive to reconvene. They might not know until the last minute, which would make any further session not very useful anyway.

I think that this is the time we have allotted to us and let us do whatever we can in the time we have available now. I do not think that we should hold out hopes that there is a chance to somehow come back to this later.

Ms. Murnaghan (Ireland): I hope that my voice, which seems a little bit weak this morning, will hold out.

I do not have too many bright new ideas, but, as I said yesterday, we believe it would still be useful to try to continue with the objective of reaching consensus on substantive items this year, with a view to being prepared, either if we are successful for a start to a substantive discussion next week or, indeed, to be ready for next year. In that light, I also said yesterday that I appreciated that, given that we had the Chairman's proposals only late on Monday, individual countries and groups of countries would need some time for consideration of those proposals. I would suggest that we might consider adjourning until tomorrow afternoon to give that time for groups to work, but not to leave it so close to the weekend that we do not have an opportunity to come back between today and Friday evening to continue our discussions.

Mr. Issa (Egypt): I just wish to make a statement to clarify an issue, not to waste time. When the issue of adjourning the session was raised yesterday, the Secretary correctly pointed out that rule 118 allows for the adjournment or suspension of a meeting. I had recourse last night to the legal authorities who would be responsible for interpreting the rules of procedure of the General Assembly, and that is correct. However,

the picture is much broader. Without going into detail, in rule 117 of the rules of procedure, regarding closure of debate, and rule 118, regarding the suspension or adjournment of meetings, there are at least six possible permutations that allow for the suspension or adjournment of this entire session. I just wanted to make clear to delegations that, while we received a very accurate reading from the Secretary yesterday regarding the rules of procedure, the legal reading is relatively broader and the rules of procedure do allow us to proceed on course, vis-à-vis either rule 117 or rule 118, and we have six avenues by which to proceed.

However, it remains the opinion of my delegation, as we said yesterday, that the representative of Indonesia, on behalf of the Non-Aligned Movement (NAM), was wise, when he requested an adjournment, not to invoke the rules of procedure, because it would not be very wise to engage the Disarmament Commission in a voting exercise on this issue.

However, I think the position that was expressed yesterday by NAM signalled to me that we are not really close to agreement on substance and, quite frankly, the debate yesterday reinforced my delegation's opinion that we are not that close to agreeing on the substance, as some delegations may seem to think or as you have indicated, Mr. Chairman. But perhaps my reading is wrong, and perhaps your reading is more accurate than mine.

The Chairman: If additional clarification on rules of procedure is needed, I will ask the Secretary to make that clarification. As for substance, I thought I explained why I was thinking that we are rather close to achieving consensus. As I said, the informal informals — which included the Bureau members, delegations that submitted the suggestions and other interested delegations that worked together — showed that a number of delegations were rather satisfied with the suggestions that finally came out of that meeting. As for the Non-Aligned Movement (NAM), I understood that it was a formal request of NAM that those proposals be accepted as the basis for the discussions among delegations. That was the only reason I was optimistic about the concrete proposal.

At this moment it is my understanding that we have just one proposal, from the delegation of Ireland, which is that we adjourn the formal meeting now and reconvene tomorrow at 3 p.m. That will give some additional time for delegations to contact their capitals and maybe to work within the groups to find a way out of this situation. I have to remind delegations that there are just two options. Either we adjourn the session with a consensus, or we work further on the suggestion that has been submitted.

Ms. Notutela (South Africa): Let me also thank you, Mr. Chairman, since I did not take the floor yesterday, for your efforts in terms of giving us the latest set of proposals.

I am taking the floor specifically to support the statement made by Indonesia on behalf of the Non-Aligned Movement (NAM) yesterday. However, since you are now sort of making a ruling in terms of the way forward for tomorrow, I just felt that I needed to clarify something. My delegation will not be in a position to have instructions by tomorrow. South Africa is voting today. It was a holiday yesterday. It is still a holiday today.

Those are some of the issues that we raised within NAM in terms of the practicality of us coming back with positions on the Chairman's text. NAM is not rejecting the Chairman's text. We all agreed within NAM that this text should be used as a basis for further discussion. But the problem that NAM had was that, at this particular moment, it is practically impossible for some delegations, including mine, to have a position on the Chairman's text.

As I said, in South Africa we are voting at this time, and there is no way that I am going to have instructions. Without even talking about adjourning or anything else, I am trying to explain here the practicalities of coming back with instructions on the Chairman's text. I think those issues need to be taken into consideration. NAM is not refusing to engage on the Chairman's text; not at all. The ideas that were offered during the informal consultations actually show that we are prepared to engage. If we can agree this week, we are prepared to continue, but we need to look at the reality: the fact that one delegation is ready does not mean that everyone should be ready.

The Chairman: In that respect, I should like to pose a question. Does that mean that the delegation of South Africa could be ready by, let us say, Friday?

Ms. Notutela (South Africa): I truly do not know.

The Chairman: Do members have any other suggestions or ideas?

Mr. Liebowitz (United States of America): I offer the following as a suggestion. If it is helpful, then members can pick up on it; if not, then we will look for something else. I wonder whether, tomorrow morning or afternoon, we could reconvene in the informal informal framework to see whether, perhaps not everyone, but at least some members will have comments on the paper. We could at least get some feel for where we are at that time, and then either convene a meeting such as this or meet later in the day or sometime on Friday. That might be a way to make some progress. Again, I offer that as a suggestion. I think we have found these discussions to be useful. If others do not like it, then we will do something else.

Mr. Najafi (Islamic Republic of Iran): My delegation is one of those that need time to study and to seek instruction from their capitals. However, since the representative of Ireland proposed that we have a meeting tomorrow afternoon, perhaps that would be a good idea, at least so that we can hear the views of European Union delegations, whose reactions could help our capital to study the issue.

With regard to the idea of convening informal informals, my delegation could not support that, since we have already exhausted that kind of exercise, and the proposal is clear and on the table. We need to see delegations' positions, and we would prefer to do that in a formal meeting, on the record, and so that the positions would be clearer.

The Chairman: We have a variety of views on how to proceed. I am trying to find a way out of this situation. Perhaps we could reach a compromise between these proposals by proceeding as follows. Tomorrow at 3 p.m., we could have open-ended informals here. Clearly, if we have a formal meeting, we will not get answers from a number of delegations; experience has shown us that that certain delegations will need more time to define their positions on this or that matter, and specifically on this suggestion. On the other hand, other delegations may have a clearer picture by tomorrow, which would perhaps provide us with a clearer idea of where we are. Then, after tomorrow's informal consultations, when we have received more information from delegations and their capitals, we could decide when to have a formal meeting — perhaps on Friday.

Ms. Notutela (South Africa): I should like to ask a practical question. How will the coordinator of the Non-Aligned Movement (NAM) be able to engage in discussions tomorrow if some NAM members do not have instructions? We work within a group: we coordinate our positions within that group. If some NAM members do not have instructions, how will he be able to engage in tomorrow's discussions? Here, I raise a practical question that is a practical concern of my delegation.

The Chairman: Honestly, I think the question should be directed to the countries of the Non-Aligned Movement (NAM) more than to me. But I am suggesting that we convene open-ended informal consultations tomorrow because I understand that a number of delegations will not have final answers, owing to the fact that they must contact their capitals or that they lack the opportunity to speak to one another and thereby to agree on a group position.

Mr. Najafi (Islamic Republic of Iran): I thought I had made it clear that my delegation cannot support convening any kind of informal consultations. Since the decision is whether to continue the substantive session of the Disarmament Commission, we would prefer that any kind of discussion on the proposed agenda items — such as what the Chairman proposed — take place within a formal Commission meeting so that everything would be recorded, thereby preventing any misunderstanding.

The Chairman: I appreciate the position of the representative of Iran. But, still, it is clear, from South Africa and other delegations, that there is a very low possibility that they will have firm and clear instructions by tomorrow. So in this situation, I could call Chairman's private consultations for tomorrow, with delegations that are interested, in order to have a clearer picture. Is that acceptable?

Mr. Issa (Egypt): With all due respect, I think that, as you indicated yesterday, the name of the game from the beginning has been transparency. I am not sure that private consultations with interested delegations would fulfil that criterion.

It would seem to me, from what I have heard, that basically there is a suggestion by the European Union that there be a meeting tomorrow. They indicated that it should be a formal meeting. Iran has no problem with a formal meeting tomorrow; Iran does have a problem with an informal meeting. South Africa has raised two issues: first, that they will not have instructions in their national capacity by tomorrow and,

secondly, that given that they will not have such instructions, it will be impossible for the Non-Aligned Movement coordinator to speak concerning anything of substance tomorrow. What I conclude — and this may be a wrong conclusion on my part — is that there really is no avenue for holding a meeting tomorrow afternoon, be it formal or informal.

With regards to private consultations, as I mentioned and I think as you mentioned, Mr. Chairman, the name of the game is transparency. However, if the Chair is interested in engaging, I think the avenue open for the Chair is through the Bureau. Perhaps the Chair might wish to have consultations with the Bureau tomorrow. But certainly, we would be opposed to any format that is not fully transparent in every manner. The Bureau is an official body. It is a closed body and it allows the Chairman to engage in any form of consultations that he might require. But going beyond the Bureau and having consultations in any private format, I think, would go beyond the objective that you are trying to establish.

Mr. Najafi (Islamic Republic of Iran): I believe I have already made the position of my delegation clear. We respect the decision of the Chair to have private consultations. I would, however, like to put on the record that we will not want any kind of result to emerge from those private consultations, since it is very clear that we have received a proposal and that we need to consult with our capitals and come back to the whole group. There might, then, be a position on that proposal.

However, we do not object to private consultations or consultations through the Bureau or other meetings. Certainly these are not open-ended. We will not participate in those consultations and we will not be bound by any result of those consultations.

The Chairman: I completely agree, of course, that there cannot be decisions that are obligatory for anybody. On the other hand, I agree with our colleague from Egypt that the Bureau could be one of the options. I would not agree that this is a matter of transparency, because I am not asking for specific delegations to participate. The door is open to everyone. This could definitely be done in such a way that the discussion itself would be open to any interested delegation. But I am not insisting on having the meeting as such; that is not my goal. The goal is to find a way for us to come to a decision — and I think that this should be the goal for all delegations.

Either we work next week on the proposal — which, I repeat, has not been rejected by any delegation — or we adjourn the session. That is the only reason for having more clarity, nothing else. If delegations are not in the mood to have any kind of meeting tomorrow, we can have a formal meeting on Friday. However, as I understand from our South African colleague, there is no guarantee that they will have a concrete position, even on Friday — and it is clear that this is not the only delegation that will be in such a position. I repeat that my intention was to have more clarity on how delegations are planning to continue our work. If that will not be possible, then maybe we will have a formal meeting on Friday.

Ms. Martinic (Argentina) (*spoke in Spanish*): My delegation would like to support the proposal made by the representative of Egypt. We have the impression that, at this stage of our consultations, we are all somewhat sensitive. So we really must be very careful if we want to preserve the efforts we have made so far. Therefore, the most appropriate course would be, Sir, for you to continue consultations with the Bureau. Any delegation with concerns or worries should be able to let you know through its regional representatives without affecting the fact that any delegation can convey to you, in your capacity as Chair, the legitimate concerns that it has as a delegation. I think that that might be the most appropriate course to follow at this stage. Perhaps we could leave the formal meeting for Friday, which would give us additional time for all delegations to obtain instructions.

Mr. Rachmianto (Indonesia): Briefly, my delegation would like to support the proposal made by Egypt and Argentina for the Chairman to hold consultations within the Bureau. But in response to my Argentine colleague, as the coordinator of the Non-Aligned Movement (NAM), Indonesia has to read the views of its members, so we have to be invited to participate in the consultations of the Bureau.

The Chairman: Certainly, there is no question about that. On the other hand, I would also prefer to have other delegations participate that may wish to express their opinions as well. So, let us have the Bureau meeting tomorrow morning, if that is acceptable to the Bureau. Then, let us have a formal meeting on Friday morning. If that poses difficulties

for any delegations, we can discuss them on Friday morning or afternoon. The Secretary has reminded me that we have two meetings scheduled on Friday — morning and afternoon — so if it is not possible to get anything in the morning, we can reconvene in the afternoon.

Is that acceptable to everybody? I see no objections.

The meeting rose at 11.25 a.m.